

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN TRAVIS MOLLIVER,	:	
Plaintiff	:	
v.		: Case No. 3:23-cv-82-KAP
ADAM INGRAM, <i>et al.</i> ,	:	
Defendants	:	

Memorandum Order

Plaintiff Molliver filed the complaint (subject to the Prison Litigation Reform Act because Molliver was a prisoner at S.C.I. Pine Grove at the time) in this matter in May 2023, in essence alleging that defendants, two corrections officers at the Blair County Prison and an officer of the Hollidaysburg Borough Police Department, maliciously prosecuted Molliver in Blair County at Commonwealth v. Molliver, CP-07-CR-327-2022 (C.P.Blair) in order to cover up an excessive use of force by the corrections officers while Molliver was detained at the Blair County Prison in January 2022. *See also Molliver v. Stitt*, Case No. 3:22-cv-146-KAP (W.D.Pa.).

I stayed this civil complaint because the outcome of the criminal trial in Commonwealth v. Molliver, CP-07-CR-327-2022 (C.P.Blair) will obviously have preclusive effect on claims in this matter. According to the public docket sheet, counsel represents Molliver in that case and at least two pretrial hearings have been scheduled in the past couple of months. No trial date appears to be set.

Molliver has also, in the last few months, filed several pleadings docketed as notices, briefs, or supplements, ECF no. 36, ECF no. 39, ECF no. 44, ECF no. 47 through 49, plus a request for release from custody and other relief that he styles as a Request for Protection, ECF no. 34, and an Order to Show Cause for a Preliminary Injunction, ECF no. 42. The last two were docketed as motions by the Clerk. Molliver objects to the stay as equivalent to requiring him to exhaust administrative remedies, something he argues is not required. ECF no. 35. He also seeks appointment of counsel, ECF no. 37, ECF no. 40.

For their part, defendants have filed motions to strike. ECF no. 45, ECF no. 51.

All the pending motions are denied. Defendants' motions to strike, as I said in my last order in February, seeks an extraordinary sanction that is unnecessary and saves no one any time or effort. I have to read the pleadings anyway. Except for the motions to appoint counsel, the plaintiff's motions are insubstantial or frivolous, but simply denying motions when they lack merit is the appropriate response. The two pleadings docketed by the Clerk as motions, ECF no. 34 and ECF no. 42, are denied because they are content free: plaintiff is very clear about what he wants the court to do, but he alleges no facts and presents no

law showing an entitlement to any relief. Also, ECF no. 42 makes no effort to comply with Rule 65.

The motions for counsel are denied without prejudice pursuant to Local Civil Rule 10. Local Civil Rule 10.C provides that “[a]bsent special circumstances, no motions for the appointment of counsel will be granted until after dispositive motions have been resolved.” The local rule reflects the experience-based judgment of the District Court that, given the few attorneys who have expressed willingness to represent inmates *pro bono*, counsel should be reserved for cases pending trial. There are no special circumstances here: the plaintiff’s status as an indigent prison inmate is the same as most applicants, and his handwriting is better than most. Of course counsel would help, but there is nothing complicated about the issues in this case, and a litigant cannot create the appearance of a need for counsel by filing meritless or frivolous motions. The perverse incentive that would create should be obvious. If and when it appears that counsel should be sought, I and my colleagues usually do so *sua sponte* because having counsel and not an untrained inmate manage the litigation benefits the court.



DATE: June 18, 2025

Keith A. Pesto,
United States Magistrate Judge

Notice to counsel by ECF and by U.S. Mail to:

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and

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